



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,439	01/30/2007	Mathijs Theodorus Wilhelmus Van De Ven	3135-061030	9721
28289 7590 12/17/2007 THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			EXAMINER LEPISTO, RYAN A	
			ART UNIT 2883	PAPER NUMBER
			MAIL DATE 12/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/574,439

Applicant(s)

VAN DE VEN, MATHIJS  
THEODORUS WILHELMUS

Examiner

Ryan Lepisto

Art Unit

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/31/07</u>  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 17-21 and 23-31** are rejected under 35 U.S.C. 102(b) as being anticipated by **Kitchen (US 4,399,430)**. Kitchen teaches a fence and method of manufacturing it (Figs. 1, 2, 8; column 4 lines 23-47, column 7 lines 6-21) comprising an optical fiber signal line woven inside (Fig. 9; 8, 10, 12, 14) and conductor (1) for conducting light and supporting the fence, tensioning Kevlar (polyaramid) fiber material (3) that are tensioned substantially parallel to the conductor (1) and where the conductor (1) is positioned by and enclosed by the Kevlar fiber material (3), a cover (5) enclosing the conductor (1) and tensioning fibers (3), elongate anchoring means (4, 6, 16, 19) that the signal lines (8, 10, 12, 14) are releasably connected to and pressure elements (38, 40, 46) engaging the signal lines (8, 10, 12, 14) that are harder than the conductor (1) (column 5 lines 45-55).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 22 and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitchen as applied to claim 17-21 and 23-31 above, and further in view of **Wilkins (US 4,763,981)**.

Kitchen teaches the optical fiber fence previously discussed.

Kitchen does not teach expressly the tensile strain on the Kevlar fibers being between 300 to 2000 N (30.6 to 203.9 kgf).

Wilkins teaches a fiber cable using Kevlar tensioning material to increase tensile strength wherein the Kevlar will not break until at 2.5% strain at 1434 kgf, which is in the 14000 N range (column 7 lines 4-15).

Kitchen and Wilkins are analogous art because they are from the same field of endeavor, tensioning optical cables with Kevlar.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to that a Kevlar tensioned cable as taught by Kitchen can take much more than 2000 N of strain as it taught by Wilkins and therefore would be an obvious choice to use any invention using strains in the 300 to 2000 N range.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Kevlar in such a strain range, since it has been held that "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). "The normal desire of

scientists or artisans to improve upon what is already generally known provides the motivation to determine where in a disclosed set of percentage ranges is the optimum combination of percentages."); In re Hoeschele, 406 F.2d 1403, 160 USPQ 809 (CCPA 1969). For more recent cases applying this principle, see Merck & Co. Inc. v. Biocraft Laboratories Inc., 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989); In re Kulling, 897 F.2d 1147, 14 USPQ2d 1056 (Fed. Cir. 1990); and In re Geisler, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997).

The motivation for doing so would have been to increase strength by using a material having extremely high tensile strengths and greater resistance to elongation than steel (Wilkins, column 6 lines 60-65).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All of the following US patent documents teach optical fiber fences:

US 4,144,530	US 4,680,573	US 4,450,434	US 4,558,308
US 4,676,485	US 4,777,476	US 4,829,286	US 4,904,050
US 5,416,467	US 5,434,557	US 5,530,430	US 5,592,149
US 2004/0183678 A1		US 6,937,151 B1	US 6,980,108 B1
US 7,068,166 B2	US 2006/0197665 A1		US 7,123,785 B2

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Lepisto whose telephone number is (571) 272-1946. The examiner can normally be reached on M-Th 7:30 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/RAL/  
Ryan Lepisto  
Art Unit 2883

Frank Font  
Supervisory Patent Examiner  
Technology Center 2800